

# MANDATE

09-0672-cv

Henry v. United Parcel Service, Inc.

## UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

### SUMMARY ORDER

Rulings by summary order do not have precedential effect. Citation to summary orders filed on or after January 1, 2007, is permitted and is governed by Federal Rule of Appellate Procedure 32.1 and this court's Local Rule 32.1.1. When citing a summary order in a document filed with this court, a party must cite either the Federal Appendix or an electronic database (with the notation "summary order"). A party citing a summary order must serve a copy of it on any party not represented by counsel.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the twenty-sixth day of May, two thousand and ten.

PRESENT:

JOSÉ A. CABRANES,  
ROBERT A. KATZMANN,  
*Circuit Judges,*  
J. GARVAN MURTHA,  
*District Judge.\**

-----x  
GARY HENRY,

*Plaintiff-Appellant,*

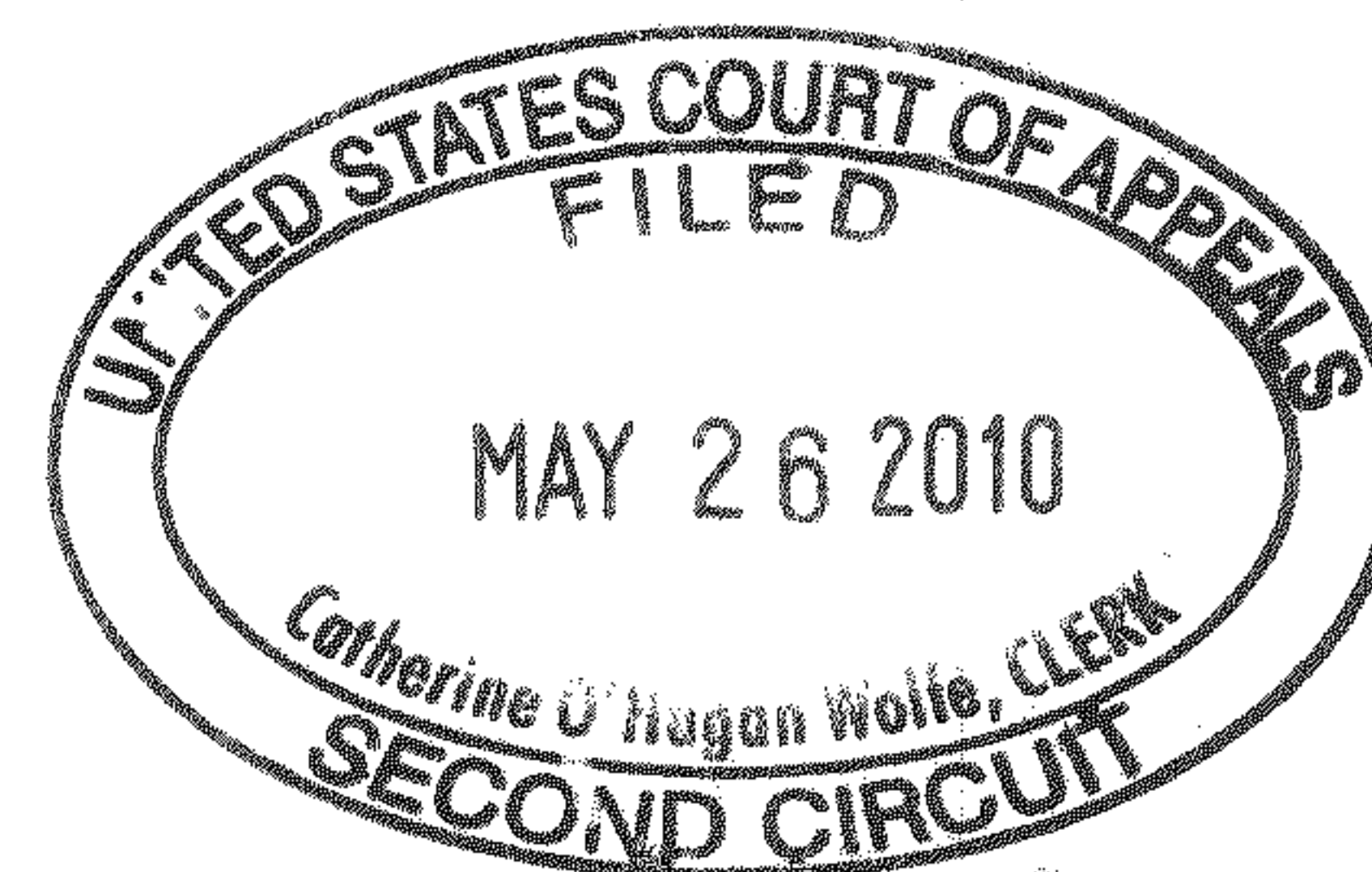
-v.-

UNITED PARCEL SERVICE, INC.,

*Defendant-Appellee.*  
-----x

FOR PLAINTIFF-APPELLANT:

FOR DEFENDANTS-APPELLEES:



No. 09-0672-cv

Gary Henry, West Islip, NY, *pro se.*

Richard J. Rabin, Akin Gump  
Strauss Hauer & Feld, LLP, New  
York, NY.

---

\* The Honorable J. Garvan Murtha, Senior Judge of the United States District Court for the District of Vermont, sitting by designation.



1 Appeal from a February 6, 2009 judgment of the United States District Court for the Eastern  
2 District of New York (Leonard D. Wexler, *Judge*).

3  
4 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND**  
5 **DECREED** that the judgment of the District Court be **AFFIRMED**.

6  
7 Plaintiff-appellant Gary Henry ("plaintiff" or "Henry"), *pro se*, appeals from the District Court's  
8 order dismissing the complaint in his suit seeking to vacate an arbitration award in favor of his former  
9 employer, defendant-appellee United Parcel Service, Inc. ("UPS"). We assume the parties' familiarity  
10 with the facts, procedural history, and issues on appeal.

11  
12 We review *de novo* the District Court's decision dismissing a complaint pursuant to Rule 12(b)(6).  
13 See *Chambers v. Time Warner, Inc.*, 282 F.3d 147, 152 (2d Cir. 2002). "To survive dismissal, [a] plaintiff  
14 must provide the grounds upon which his claim rests through factual allegations sufficient 'to raise a  
15 right to relief above the speculative level.'" *ATSI Comms., Inc. v. Shaar Fund, Ltd.*, 493 F.3d 87, 98 (2d  
16 Cir. 2007) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). When a plaintiff proceeds *pro se*,  
17 as here, we are "obliged to construe his pleadings liberally, particularly when they allege civil rights  
18 violations." *McEachin v. McGuinnis*, 357 F.3d 197, 200 (2d Cir. 2004).

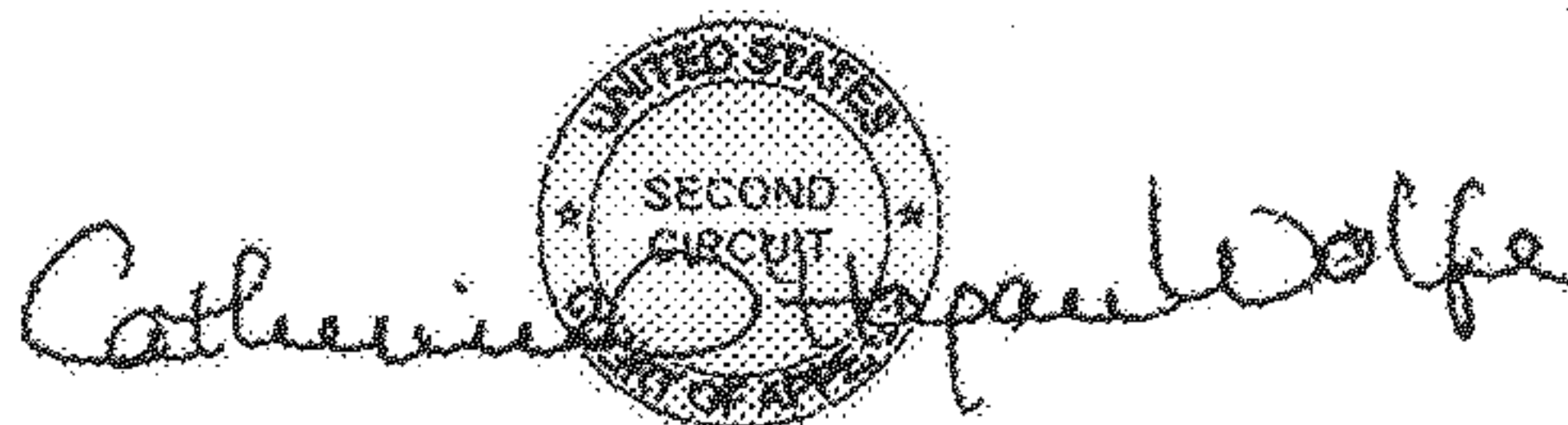
19  
20 After conducting an independent review of the record and case law, we conclude, substantially  
21 for the reasons stated in its well-reasoned order, see *Henry v. United Parcel Serv., Inc.*, 602 F. Supp. 2d 419  
22 (E.D.N.Y. 2009), that the District Court's dismissal of plaintiff's complaint was free of error.

23  
24 **CONCLUSION**

25  
26 We have considered each of defendant's arguments on appeal and find them to be without merit.  
27 For the reasons stated above, we **AFFIRM** the judgment of the District Court.

28  
29  
30 FOR THE COURT,

31 Catherine O'Hagan Wolfe, Clerk of Court

32  
33  


A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

